

1 **BEFORE THE COMMONWEALTH OF KENTUCKY**
2 **PUBLIC SERVICE COMMISSION**
3 **SURREBUTTAL TESTIMONY OF CHERYL BURSH**
4 **ON BEHALF OF**
5 **AT&T COMMUNICATIONS OF THE SOUTH CENTRAL STATES, INC.**
6 **AND TCG OHIO, INC.**
7 **CASE NO. 2001-105**
8 **AUGUST 20, 2001**

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Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Cheryl Bursh. My business address is 1200 Peachtree Street, Atlanta, Georgia. I previously submitted testimony in this Docket on July 9, 2001.

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. My testimony addresses BellSouth witness Varner's Rebuttal Testimony ("Varner") filed with this Commission on July 30, 2001. Specifically, my testimony addresses a variety of allegations made by Mr. Varner concerning AT&T's proposed Performance Incentive Plan ("PIP"). My testimony also discusses the inappropriateness of BellSouth's unilateral changes to the Georgia SQM and why Mr. Varner's explanation of BellSouth's unauthorized modifications are untenable.

Q. IN HIS REBUTTAL TESTIMONY, MR. VARNER ADDRESSES THE NUMBER OF SUBMEASURES CONTAINED IN AT&T'S PIP. (See Varner at 2:6-13 & 82:17-18.) DO YOU AGREE WITH MR. VARNER?

A. No. Contrary to Mr. Varner's testimony, AT&T's PIP contains approximately 2,778 submeasures. Indeed, Karen Kinard of WorldCom submitted testimony regarding the appropriate disaggregation levels to be used in Kentucky that also

1 shows the number of submeasures in PIP to be 2,778. This number is only
2 marginally higher than the approximately 2,200 submeasures contained in
3 BellSouth's plan. (See *Varner* at 2:12-13.) Accordingly, Mr. Varner's estimate
4 that the PIP plan contains 380,000 submeasures is wrong.

5
6 **Q. MR. VARNER TAKES ISSUE WITH PIP IN PART BECAUSE HE**
7 **BELIEVES PENALTIES SHOULD BE IMPOSED ONLY ON "KEY**
8 **MEASUREMENTS." (See *Varner* at 2:14-17.) CAN THE ECONOMIC**
9 **HARM CLECS EXPERIENCE BECAUSE OF BELL SOUTH'S**
10 **DEFICIENT PERFORMANCE BE ISOLATED TO FAILURES IN**
11 **MERELY "KEY" MEASURES?**

12 A. No. Any type of violation can result in a range of impacts depending upon any
13 number of factors, including the specific CLEC customer that was harmed and
14 when the violation occurred. For example, the inability to provide a service due
15 date in a timely fashion can result in a lost sale just as a customer service outage
16 can. Therefore, the inability to evaluate the economic harm of each and every
17 violation contributes to the need to have a consistent remedy amount for all non-
18 compliant measures. Consequently, the remedy amounts in PIP were set at a level
19 that will hopefully deter BellSouth from providing CLECs with discriminatory
20 service.

21
22 **Q. MR. VARNER CRITICIZES PIP'S ABILITY TO APPROPRIATELY**
23 **EVALUATE BELL SOUTH'S PERFORMANCE WHEN SAMPLE SIZES**
24 **ARE SMALL. (See *Varner* at 76:22-77:4.) DO YOU AGREE WITH MR.**
25 **VARNER?**

26 A. No. AT&T's proposed remedy plan allows for adjustments to be made when the
27 size of the data set is very small. AT&T's PIP adjusts for small sample sizes in
28 two ways. For measures evaluated under benchmarks, the Benchmark
29 Adjustment Table is used to account for the small sample size.¹ PIP also contains

¹ I discuss the Benchmark Adjustment Table in further detail on page 38 of my July 9, 2001 Testimony.

1 a Permutation Analysis used for parity measures with small sample sizes.
2 Accordingly, Mr. Varner's concerns are not warranted.

3

4 **Q. PLEASE RESPOND TO MR. VARNER'S ASSERTION THAT THE**
5 **LEVEL OF PENALTIES AND THE LEVEL OF PERFORMANCE**
6 **OUTLINED IN PIP ARE NOT RATIONALLY RELATED.** (*See Varner at*
7 *77:9-10.*)

8 A. Mr. Varner is incorrect. The remedy plan AT&T has proposed uses a quadratic
9 function to calculate the actual remedy amount for both benchmark and parity
10 measures. For parity measures, consequences as a function of severity is
11 accomplished by using a quadratic function of the ratio of the measured modified
12 z score to the balancing critical value (z/z^*). For parity submeasures, a parity
13 failure is established by comparing the measured value of the modified z-statistic
14 (z) to the balancing critical value (z^*) appropriate for the submeasure's sample
15 size during the given monthly period. The calculated remedy is a continuous
16 function of severity of the failure as measured by the magnitude of the modified z-
17 statistic. In this way, small changes in severity lead to small changes in
18 consequences.
19

20 As with measurements that are judged against a parity standard, those compared
21 to a benchmark standard should be subject to additional consequences as the
22 performance becomes increasingly worse compared to the benchmark. The
23 applicable consequences are a function of the measured benchmark result, x . For
24 example, if the established benchmark was 95% and BellSouth's actual
25 performance was 93%, then the 2% failure of the 95% benchmark would be
26 factored into the quadratic equation.
27

1 Q. MR. VARNER'S REBUTTAL TESTIMONY SETS FORTH SEVERAL
2 HYPOTHETICALS TO DEMONSTRATE WHAT HE BELIEVES TO BE
3 REALISTIC ESTIMATES OF BELLSOUTH'S POTENTIAL PENALTY
4 LIABILITY UNDER PIP. (See Varner at 77-78.) IS MR. VARNER
5 CORRECT?

6 A. No. Mr. Varner's estimates are fatally flawed because they rest on a faulty
7 premise. Mr. Varner relied on his inflated estimate of the total number of
8 submeasures in PIP (380,000) to perform his calculations. This number of
9 submeasures is far greater than the approximately 2,778 submeasures PIP
10 includes. Therefore, Mr. Varner's estimates are not accurate or reliable.

11
12 Q. DOES AT&T WANT BELLSOUTH TO PAY BILLIONS OF DOLLARS IN
13 REMEDIES AS MR. VARNER SUGGESTS? (See Varner at 3:2-9.)

14 A. No. AT&T wants BellSouth to provide nondiscriminatory support as required by
15 the Telecommunications Act of 1996. Penalties alone are insufficient to remedy
16 the harm to CLECs and to competition caused by BellSouth's discriminatory
17 performance. While BellSouth will provide CLECs a monetary sum, BellSouth
18 may decide those payments are reasonable if BellSouth can continue to keep its
19 customer and its market share through these early days of competition as
20 competitors come and go. Accordingly, penalties must be set at a level
21 sufficiently high to prevent BellSouth from simply determining that payments for
22 its deficient performance are a part of its cost of business. How much or how
23 little BellSouth will be required to pay in penalties is determined entirely by
24 BellSouth.

25

1 **Q. PLEASE RESPOND TO MR. VARNER'S SUGGESTION THAT**
2 **IMPLEMENTATION OF PIP WOULD NULLIFY YEARS OF**
3 **BELLSOUTH'S EFFORT AND COSTS ASSOCIATED WITH THE**
4 **DEVELOPMENT OF ITS SELF-EFFECTUATING ENFORCEMENT**
5 **MECHANISM ("SEEM")?** (*See Varner at 99:5-8.*)

6 A. Mr. Varner's concern is unwarranted. Much of the logic already programmed in
7 connection with BellSouth's SEEM could be used. For example, BellSouth's
8 software presently includes the logic necessary to make a compliance
9 determination using Modified Z. Additionally, much of the disaggregation PIP
10 recommends is already included in the BellSouth software. Indeed, BellSouth's
11 SQM disaggregation already includes approximately 21 product levels for seven
12 products. Thus, at the very least BellSouth should be able to disaggregate by 21
13 products in the remedy plan without additional expense. Adding the quadratic
14 formula PIP requires to perform its calculation of remedy amounts is a simple
15 process. Accordingly, requiring BellSouth to implement PIP would not be unduly
16 burdensome.

17
18 **Q. PLEASE RESPOND TO MR. VARNER'S ALLEGATIONS THAT AT&T'S**
19 **BASIS FOR DECISIONS ON PENALTY ASSESSMENTS CONTRADICT**
20 **ITS STATISTICIANS.** (*See Varner at 3:19-20; 98:12-12; 110:2-3; 114:7-9.*)

21 A. There is no conflict in AT&T's position. AT&T has consistently advocated the
22 need for a "like-to-like" comparison for accurate performance determination. A
23 like-to-like comparison compares items with similar operational conditions.
24 Inadequate disaggregation of results means that not all key factors driving
25 differences in performance results have been identified, which in turn interjects
26 needless variability into the computed results. The need for a "like-to-like"
27 comparison has been the rationale for more refined disaggregation.
28

1 **Q. IN CONNECTION WITH BELLSOUTH’S USE OF THE GEORGIA SQM**
2 **AS AN INTERIM SQM IN KENTUCKY, MR. VARNER ALLEGES**
3 **BELLSOUTH HAS NOT MADE ANY MODIFICATIONS TO THE**
4 **CALCULATIONS OF THE MEASURES APPROVED BY THE GEORGIA**
5 **COMMISSION. (See Varner at 86:22-23.) DO YOU AGREE?**

6 **A.** No. As I previously explained on pages 9-23 of my July 9, 2001 Testimony,
7 BellSouth has made numerous modifications that were not approved by the
8 Georgia Commission that affect the measures calculations. Mr. Varner’s July 30,
9 2001 Rebuttal Testimony provides another example. Mr. Varner contends that
10 BellSouth sends all directory listings to BAPCO, a BellSouth affiliate, for
11 processing, and that BellSouth has no control over BAPCO’s performance in
12 processing directory listing orders. (*See Varner* at 87: 1-8.) Mr. Varner contends
13 BellSouth should not be held accountable for BAPCO’s missed appointment and
14 completion intervals in the % Missed Installation Appointments and Average
15 Completion Interval measures. (*See id.*) BAPCO, however, cannot initiate any
16 processing of directory listing transactions until they are received from BellSouth.
17 If BellSouth delays in sending CLEC transactions to BAPCO, as opposed to the
18 retail directory listing transactions, CLEC customers may not be listed in the
19 directory at the committed timeframe. This would result in a significant negative
20 impact on the CLEC-customer relationship.

21
22 The modifications BellSouth has unilaterally implemented are important because
23 they may allow BellSouth to hide performance deficiencies from the Kentucky
24 Commission.
25

1 **Q. MR. VARNER CATEGORIZES BELLSOUTH'S MODIFICATIONS AS**
2 **MERE WORDING CHANGES TO CLARIFY THE MEASURES**
3 **DESCRIPTIONS IN THE GEORGIA SQM. (See Varner at 86:22-23.) IS**
4 **MR. VARNER CORRECT?**

5 A. No. As I explained in my previous testimony, these "wording changes" alter what
6 is actually measured. The Georgia Commission's January 12 Order² expressly
7 specified the measures and the language describing those measures that BellSouth
8 must use. Indeed, the Georgia Commission's Order referenced language from the
9 BellSouth May 2000 SQM and from the additional measures CLECs proposed
10 that the Georgia Commission adopted. And, the Georgia Commission set forth
11 the actual wording for some specific measures it ordered. BellSouth has
12 unilaterally changed this language in its Interim SQM. Those language changes
13 modify what is reported.

14 **Q. WHY CAN'T COMMON SENSE JUSTIFY BELLSOUTH'S**
15 **UNILATERAL MODIFICATION OF THE GEORGIA SQM AS MR.**
16 **VARNER SUGGESTS? (See Varner at 89:16-18.)**
17

18 A. The Georgia Commission considered BellSouth's proposed SQM, and CLECs'
19 proposed SQM to develop the Georgia SQM. Indeed, the Georgia Commission
20 adopted measures and language from both the CLECs' and BellSouth's proposals
21 in its January 12, 2001 Order. In that Order, the Georgia Commission also
22 provided for a review of the SQM beginning in September 2001 and continuing
23 each six-months thereafter. In connection with these reviews, BellSouth, CLECs,
24 and other interested parties may file proposed revisions to the SQMs, benchmarks
25 and analogues and have the ability to comment on any such proposed
26 modifications. If BellSouth's proposals are simply a matter of common sense, the
27 Georgia Commission has provided a vehicle for it to present these modifications

² See Order, *In re: Performance Measurements for Telecommunications Interconnection, Unbundling and Resale*, Docket No. 7892-U, Jan. 12, 2001 ("January 12 Order" or "Georgia Commission's Order").

1 so that CLECs are aware of the proposed modifications and can respond to them
2 appropriately.

3
4 This Commission should not permit BellSouth to unilaterally modify the intent of
5 the measures ordered by the Georgia Commission outside of this collaborative
6 process and control the amount of information provided to this Commission and
7 CLECs regarding its performance in Kentucky.

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9 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

10 A. Yes.